

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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**CRAIG CUNNINGHAM,**

Plaintiff,

v.

MICHAEL MONTES, Tollfreezone.com, Inc.,  
Mydataguy.com, LLC, Podmusicgear.com,  
Inc., Tollfreezone.com, Inc., dba  
Docauditor.com, Tollfreezone.com, Inc., dba  
Mobile Trackme, Emailmyvmail.Com, Inc.,  
and John and Jane Does 1-10,

Case No. 16-cv-761

Defendants.

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**DECLARATION OF MICHAEL MONTES**

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I, Michael Montes, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am an owner of several small businesses, tollfreezone.com, Inc., mydataguy.com, LLC, podmusicgear.com, Inc., and emailmyvmail.com, Inc. I am not a resident of the State of Wisconsin and none these businesses were formed, are located in, or transact business in the State of Wisconsin. I make this declaration based on my personal knowledge and the records maintained by these businesses.

2. In late November 2016, I spoke on the phone with a St. Croix County sheriff's deputy who was attempting to serve a lawsuit upon me at a property at 1731 50<sup>th</sup> St., Somerset, Wisconsin. I advised the officer the property is a rental property and I do not live there or anywhere else in Wisconsin. In talking with the deputy, I came to believe the deputy was trying to serve a lawsuit that had been filed against me by Craig Cunningham in the United States District Court for the Middle District of Tennessee. At this time I was unaware that Cunningham

had filed a separate lawsuit in the United States District Court for the Western District of Wisconsin.

3. The property at 1731 50<sup>th</sup> St., Somerset, Wisconsin, is owned by a trust, which is reflected on the property tax record for this address stating the property is owned by "Montes, Michael and Amy TR." A true and correct copy of the online property tax record is attached hereto as Exhibit A.

4. In late May 2017, I was informed by one of the other defendants in the lawsuit filed in the United States District Court for the Middle District of Tennessee that Cunningham had filed the present lawsuit and was now seeking the entry of a default judgment. I immediately contacted and retained legal counsel to represent me and my companies in the action.

5. The Defendants have a meritorious defense to the Plaintiff's Complaint. The majority of the companies sued have nothing to do with phone call dialing operations. Podmusicgear.com, Inc., is an apparel manufacturer that makes hats embedded with speakers. Emailmyvmail.com, Inc., is a cell phone application that will record a user's cell phone calls. Mydataguy.com, LLC, sells business to business data. The Complaint also makes reference to Mobiletrackme.com and Docauditor.com. These domain names are simply domain names and are not operational businesses. Tollfreezone.com, Inc., is a legal entity that runs an online platform for use by others to place auto dialed phone calls. It does not select or control the phone numbers that are called by those who contract to use the system. Users enter their own phone numbers to call, load their own message to send out, set their own times and dates to call out, and determine if they need to exclude numbers listed on the federal do not call list or exclude cell phone numbers. Typical users include political candidates, political associations, municipalities, and school districts that need to transmit emergency notifications.

6. I have not personally called any of the phone numbers listed in "Plaintiff's Affidavit of Phone Calls and Damages in this Case." I have also had no involvement in the selection of any phone numbers called by any person or entity using the online dialing platform provided by tollfreezone.com, Inc.

**VERIFICATION**

I declare under penalty of perjury that the foregoing is true and correct.

Dated June \_\_, 2017.



Michael Montes

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| Tax Year                                 | Prop Type   | Parcel Number   | Municipality           | Property Address | Billing Address   | Owner                       |
|--|-------------|-----------------|------------------------|------------------|---|-----------------------------|
| 2017 <input checked="" type="checkbox"/> | Real Estate | 032-2015-95-200 | 032 - TOWN OF SOMERSET | 1731 50TH ST     | MICHAEL & AMY TR MONTES<br>PO BOX 26<br>SOMERSET WI 54025 | MONTES,<br>MICHAEL & AMY TR |

Tax Year Legend:

= owes prior year taxes

= not assessed

= not taxed

Delinquent

Current

## Property Summary

|                  |                     |
|------------------|---------------------|
| Parcel #:        | 032-2015-95-200     |
| Alt. Parcel #:   | 04.30.19.527C       |
| Parcel Status:   | Current Description |
| Creation Date:   |                     |
| Historical Date: |                     |
| Acres:           | 10.472              |

## Property Addresses

Primary Address

1731 50TH ST SOMERSET 54025

## Owners

| Name                      | Status        |
|---------------------------|---------------|
| MONTES, MICHAEL & AMY TR  | CURRENT OWNER |
| KLINE, EDWARD R & CAROL A | FORMER OWNER  |

## Parent Parcels

No Parent Parcels were found

## Child Parcels

No Child Parcels were found

## Legal Description

SEC 4 T30N R19W FORMERLY PT OF LOT 1 CSM 6/1742 LOCATED IN NW SW NKA LOT 5 CSM 13/3721 INCLUDES 032-2016-10-100 P528B

## Public Land Survey - Property Descriptions

| Primary                             | Section | Town | Range | Qtr 40 | Qtr 160 | Gov Lot | Block | LotType | Lot | Plat               |
|-------------------------------------|---------|------|-------|--------|---------|---------|-------|---------|-----|--------------------|
| <input checked="" type="checkbox"/> | 04      | 30 N | 19 W  |        |         |         |       | LOT     | 05  | CSM 13-3721 032-99 |

## District

| Code | Description          | Category          |
|------|----------------------|-------------------|
|      | LOCAL                |                   |
|      | ST. CROIX COUNTY     | OTHER DISTRICT    |
|      | STATE OF WISCONSIN   | OTHER DISTRICT    |
| 5432 | SCH DIST OF SOMERSET | REGULAR SCHOOL    |
| 1700 | WITC                 | TECHNICAL COLLEGE |

EXHIBIT

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